

REMARKS

Applicant has carefully reviewed this Application in light of the Election/Restriction Requirement mailed November 16, 2007. Claims 1-18 are pending in this Application and Claims 1-18 are subject to the election or restriction requirement.

The Examiner required an election of the claimed invention between the following groups:

- I. Claims 1-12, drawn to a data acquisition system, classified in class 348, subclass 211.99.
- II. Claims 13-16, drawn to a data acquisition management system, classified in class 348, subclass 211.99 or class 709, subclasses 207 and 223 or class 707, subclass 234.
- III. Claims 17-18, drawn to method/process of managing a data acquisition system, classified in class 348, subclass 211.99 or class 709 subclasses 207 and 223.

Applicant hereby elects to prosecute with traverse Group I, Claims 1-12. Subject to Applicant's traverse of the election/restriction requirements, Claims 13-18 are hereby provisionally withdrawn from consideration without prejudice or disclaimer and may be later rejoined in this application or included in the filing of a divisional application thereon.

Notwithstanding Applicant's provisional election to prosecute Group I, Claims 1-12, Applicant traverses the Examiner's restriction requirement on the ground that restriction is improper because the Examiner has failed to show reasons why there would be a serious burden on the Examiner if the restriction were not required. Pursuant to the M.P.E.P.:

There are two criteria for a proper requirement for restriction between patentably distinct inventions:

(A) The inventions must be independent ... or distinct as claimed ...;
and

(B) There would be a serious burden on the examiner if restriction was not required[.]

M.P.E.P. § 803(I). Even assuming, *arguendo*, that the Examiner has established the first criterion for a restriction requirement (which the Applicant does not concede), the Examiner has failed to establish the second criterion of showing a serious burden on the Examiner. As

also set forth in the M.P.E.P., “the examiner, in order to establish reasons for insisting upon restriction, must explain why there would be a serious burden on the examiner if the restriction is not required.” M.P.E.P. § 808.02. However, in the Election/Restriction Requirement, the Examiner nowhere uses the word “burden,” let alone claims that a serious burden would exist if the restriction were not required. Accordingly, restriction is not proper. For at least these reasons, Applicants respectfully request withdrawal of the election/restriction requirement, and rejoinder of withdrawn Claims 13-18.

CONCLUSION

Applicant appreciates the Examiner's careful review of the application. Applicant has made an earnest effort to place this case in condition for examination and allowance. For the foregoing reasons, Applicant respectfully requests reconsideration of the application, rejoinder of Claims 13-18, and full allowance of Claims 1-18.

Applicant authorizes the Commissioner to charge any fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P. to effectuate this filing.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicant's attorney at 512.322.2581.

Respectfully submitted,

BAKER BOTTS L.L.P.

Attorneys for Applicant

A handwritten signature in black ink, appearing to read "Paula D. Heyman", with a long horizontal flourish extending to the right.

Paula D. Heyman
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Date:

Dec. 14, 2007

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